

Appl. No. 09/616,714
Response dated April 5, 2004
Reply to Office Action of October 4, 2003

REMARKS/ARGUMENTS

Claims 1-4, 7-11 and 14-38 are pending in this application. No claims are amended in the present response. Claims 5, 6, 12 and 13 were previously canceled. Claims 22-37 have been withdrawn from consideration without prejudice.

The Examiner relies on a published U.S. patent application to Muyres (U.S. Patent App. Pub. No. US 2001/0010046) in rejecting the pending claims. As a reminder, Applicant notes that U.S. Patent App. Pub. No. US 2001/0010046 is a continuation-in-part of U.S. Patent App. Serial No. 09/423,025, which is a 371 of international application No. PCT/US98/18948. U.S. Patent App. Pub. No. US 2001/0010046 has a filing date of March 1, 2001, i.e., after the July 14, 2000 filing date of the present application. Only that portion of the Muyres disclosure that is common with U.S. Patent App. Serial No. 09/423,025 and its predecessors may be considered prior art in rejecting the claims of the present application.

I. Summary of Interview with Examiner – April 5, 2004

Applicant's representative, T. Snyder, and Examiner Gart discussed the present application briefly via telephone on April 5, 2004. The Examiner stated that he would provide a detailed and non-final action addressing the arguments of the prior response (dated February 3, 2004), if those arguments were re-presented in a new response paper submitted with a Request for Continued Examination (RCE). Accordingly, Applicant

Appl. No. 09/616,714
Response dated April 5, 2004
Reply to Office Action of October 4, 2003

submits the present response paper restating those arguments, as well as an RCE provided concurrently herewith.

II. Rejection of Claims 1-4, 7-11, 14-21 and 38 Based on 35 U.S.C. § 102(e)

The Examiner has rejected claims 1-4, 7-11, 14-21, and 38 under 35 USC § 102(e) as being anticipated by Muyres (U.S. Patent App. Pub. No. US 2001/0010046).

Applicant respectfully disagrees.

A. Independent Claim 1 and Dependent Claims 2-4, 7 and 15

1. Muyres Does Not Provide Both a Vendor Computer System and a Merchant Computer System

The Examiner states that paragraph 0070 of Muyres discloses:

"transmitting transaction information between said client computer system and said vendor computer system enabling a user at said client computer system to select and purchase, via said vendor computer system, items listed in a merchant computer system by a plurality of merchants without said user having direct access to said merchant computer system..."

Applicant respectfully disagrees. Paragraph 0070 of Muyres refers to Figure 2a, which discloses a business model. Nothing in Figure 2A or paragraph 0070 discloses a vendor computer system and a merchant computer system. In general, Muyres discloses a PC 14 communicating with a master server 48. A graphical user interface (GUI) 46 executes on PC 14 to present a user with a virtual "village" having multiple stores 44. The inventory

Appl. No. 09/616,714
Response dated April 5, 2004
Reply to Office Action of October 4, 2003

for stores 44 is also generally stored on the hard drive or in removable media within PC

14. When a user selects and purchases an item from the local inventory, a key is obtained from the master server to unlock the item for use.

It is not apparent to Applicant how PC 14 and master server 48 teach or suggest, let alone anticipate, the claimed invention, which recites both a vendor computer system and a merchant computer system. Assuming, for example, that the Examiner is reading the claimed vendor computer system onto the master server of Muyres, there is no disclosure in Muyres of a merchant computer system as claimed. Further, in Muyres, a user selects items listed in the GUI engine executing on PC 14. There is no disclosure of a merchant computer system comprising any listing of items. For these reasons, Muyres does not anticipate "transmitting transaction information..." as recited in independent claim1.

2. Muyres Does Not Modify Responses as Claimed

The Examiner refers to paragraph 0069 of Muyres to disclose "*modifying responses from said merchant computer system to said client computer system at said vendor computer system....*" Paragraph 0069 of Muyres refers to updating versions of, and inventory within, a DCVM (digital content vending machine) using push technology.

Applicant respectfully submits that a vague reference to using push technology to perform inventory and version updates of a generalized "vending machine" provides no anticipation, nor any useful suggestion with respect to a vendor computer system modifying responses from a merchant computer system to a client computer system.

Appl. No. 09/616,714
Response dated April 5, 2004
Reply to Office Action of October 4, 2003

Even if one is to read the generalized DCVM in the context of the more specific apparatus described within Muyres, as stated previously, Muyres fails to disclose a merchant computer system, or, alternatively, a vendor computer system. Both computer systems are recited in independent claim 1. For these reasons, Applicant contends that Muyres does not anticipate "*modifying responses from said merchant computer system to said client computer system at said vendor computer system....*"

In light of the foregoing reasons, Applicant respectfully submits that claim 1 is allowable over the cited reference. Further, claims 2-4, 7 and 15, being dependent upon an allowable base claim, are also allowable for at least the foregoing reasons provided with respect to independent claim 1.

B. Independent Claim 8 and Dependent Claims 9-11, 14 and 16

1. Claim 8 Allowable for Same Reasons as Claim 1

The Examiner has stated that claim 8 is rejected under the same rationale as set forth for claim 1. Likewise, Applicant respectfully submits that the arguments provided above with respect to the allowability of independent claim 1 also apply to claim 8.

2. Monitoring an Information Exchange Is Not Anticipated

The Examiner has not identified how Muyres anticipates "*monitoring an information exchange....*" as recited in claim 8. This element is not recited in claim 1, and is therefore not addressed by the rationale in rejecting claim 1. Applicant submits

Appl. No. 09/616,714
Response dated April 5, 2004
Reply to Office Action of October 4, 2003

that the Examiner has not made a prima facie showing of anticipation (or obviousness) with respect to claim 8, and the rejection of claim 8, as recited, must therefore be withdrawn. Further, Applicant submits that Muyres does not teach or suggest, let alone anticipate a vendor computer system monitoring an information exchange between a client computer and a plurality of merchant computer systems.

3. Muyres Does Not Modify Responses as Claimed

Claim 8 recites "*modifying responses ... to route at least a portion of said information exchange through said vendor computer system.*" Muyres fails to teach or suggest, let alone anticipate performing any modifications to responses to route any portion of an information exchange through a vendor computer system.

For the foregoing reasons, Applicant submits that independent claim 8 is allowable over the cited reference. Further, claims 9-11, 14 and 16, being dependent upon an allowable base claim, are themselves allowable for at least the foregoing reasons provided with respect to independent claim 8.

C. Independent Claim 17 and Dependent Claims 18-21

Muyres Does Not Disclose Modifying Links

The Examiner states that paragraph 0069 anticipates controlling a transaction, where controlling comprises "*modifying links in said merchant content to redirect said links to said vendor server.*" Applicant respectfully disagrees. As stated previously,

Appl. No. 09/616,714
Response dated April 5, 2004
Reply to Office Action of October 4, 2003

paragraph 0069 of Muyres pertains to inventory and version updates in a generalized "vending machine." Muyres does not teach or suggest, let alone anticipate (1) modifying links, (2) where such links are in merchant content, and (3) where the links are modified to redirect those links to a vendor server.

For at least the foregoing reasons, Applicant respectfully submits that independent claim 17 is allowable over the cited reference. Further, dependent claims 18-21, being dependent upon an allowable base claim, are themselves allowable for at least the foregoing reasons provided with respect to independent claim 17.

D. Independent Claim 38

The Examiner states that independent claim 38 is rejected under the same rationale as claim 1. Applicant submits that independent claim 38 is allowable over the cited reference for at least the foregoing reasons provided with respect to independent claim 17.

Appl. No. 09/616,714
Response dated April 5, 2004
Reply to Office Action of October 4, 2003

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

THE HECKER LAW GROUP

Date: April 5, 2004

By: Todd N. Snyder

Todd N. Snyder
Reg. No. 41,320

THE HECKER LAW GROUP
1925 Century Park East
Suite 2300
Los Angeles, California 90067
(310) 286-0377

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA. 22313-1450:

Todd N. Snyder April 5, 2004
Signature: Todd N. Snyder Date